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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,774	08/08/2001	Alberto Navarra Pruna	P/4043-2	4331

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NEW YORK, NY 100368403

EXAMINER

LUK, EMMANUEL S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/26/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/924,774

Applicant(s)

PRUNA, ALBERTO NAVARRA

Examiner

Emmanuel S. Luk

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 7-10, 15 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7-10 and 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claims 7-10, the term "generator lines" is indefinite and is not supported in the specification. The Examiner is at a loss in regards to the generator lines. However, the rest of the structure taught in the claims is understandable and further limit the claims.

In regards to claims 16-20, the claims recites the limitation "said elements".

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1, 2, 11, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Holdt.

Von Holdt teaches the claimed apparatus having a flexible ejector (26) for molds, having a rod (26; pin) provided with means of attachment (28) to the ejector plates (22, 24), a deformable neck (38) ends with a small header (40) that incorporates a material recess (42) that corresponds to the negative to be obtained, the configuration adopts a rectangular prism shape (Fig. 2). A bushing (34) is provided between the header and the rod.

Von Holdt fails to teach the header having a rectangular prismatic shape, the diagonal length of the header is equal to or smaller than the diameter of the rod and the housing and the rod orifice are cylindrical and perpendicular.

In regards to the shape and size relation of the header, Von Holdt teaches an ejector with a flexible neck and functions the same as the claimed invention. The shape of the header and the size is merely a change in size and shape of the ejector rod and does not produce a different and unexpected result. Thus, it would have been obvious to one of ordinary skill in the art to modify Von Holdt with the changes in the size and shape of the header because of user design choice outside unexpected results.

6. Claims 3-6, 13-14, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Holdt as applied to claims above, and further in view of Smith.

Von Holdt fails to teach a rod that is externally threaded.

Von Holdt does teach a facing (52) that has an opposite side (58) having notches (60) that would ensure movement in the axial sense.

Smith teaches an ejector rod (40) that has threads (47) that allows for locking in the adjusted position (Col. 4, lines 58-62) and a pinlike insert (50) of plastic material is used for locking. The pinlike insert is suitable means similar to a silicone gasket.

It would have been obvious to one of ordinary skill in the art to modify Von Holdt with an external threads as taught by Smith because it allows for adjustment in position of the ejector in relation to the mold.

Allowable Subject Matter

7. Claims 7-10, 15 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach an flexible ejector with the rod at the externally threaded segment a small flat facet in order to immobilize the ejector in an angular sense while allowing it to move freely in an axial sense with aid of key also

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provided between the ejector plates. The closest prior art, Von Holdt and Smith fails to teach this feature for a flexible ejector.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pruna, Catalonottie et al and Kawasaki et al.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (703) 305-1558. The examiner can normally be reached on Monday through Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

E.L.
June 19, 2003


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700